

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. KEVIN HUNTER, Defendant.	5:24-CR-50097-CCT ORDER FOR SUPPLEMENTAL BRIEFING
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Defendant Kevin Hunter filed a motion for bill of particulars on March 19, 2025. (Doc. 39). In his motion, he argues that the indictment does not allege sufficient facts as to what act or omission constitutes gross negligence. Id. at p. 39. The United States filed a brief in opposition to the motion on April 11, 2025. (Doc. 45). Thereafter, on April 18, 2025, the United States filed a Superseding Indictment changing the relevant verbiage in Count 1 from, “. . . Kevin Hunter did operate a motor vehicle *in a grossly negligent manner.* . . .” (Doc. 1)(emphasis added), to “. . . Kevin Hunter did operate a motor vehicle *while intoxicated, speeding, and driving recklessly.* . . .” (Doc. 46)(emphasis added). The Defendant filed a reply brief on April 19, 2025, which did not discuss the Superseding Indictment. Instead, he argues that a bill of particulars is necessary because, “the government provided Hunter with a list of potential acts that it claimed were the acts charged in the indictment. None

of the acts are contained in the indictment.” (Doc. 50 at p. 2). The Superseding Indictment appears to remedy Mr. Hunter’s grievances.

The court is requiring additional briefing from the parties to resolve the defendant’s motion. Specifically, the court directs the parties to address the following issues: 1) does the Superseding Indictment render Defendant’s motion as moot; 2) if the motion is not moot, what is the legal basis for the court to issue a bill of particulars; 3) whether the issues regarding multiple factual allegations and the unanimity are best addressed during trial and through jury instructions or through the motion for bill of particulars.

NOW THEREFORE, it is hereby

ORDERED that Defendant’s supplemental briefing is due on or before May 5, 2025; the United States’ brief is due on or before May 12, 2025; Defendant’s reply, if any, is due on or before May 16, 2025.

DATED this 25th day of April, 2025.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Daneta Wollmann", is written over a horizontal line.

DANETA WOLLMANN
United States Magistrate Judge